

ARKANSAS SUPREME COURT

No. CR 06-1133

MARCUS HANCOCK
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered May 31, 2007

PRO SE MOTION TO FILE BELATED
BRIEF [CIRCUIT COURT OF
ARKANSAS COUNTY, NORTHERN
DISTRICT, CR 2004-294, CR 2004-346,
CR 2005-106, HON. DAVID G. HENRY,
JUDGE]

MOTION GRANTED.

PER CURIAM

As reflected in judgment and commitment orders entered March 15, 2006, appellant Marcus Hancock entered negotiated pleas of guilty to possession of marijuana with intent to deliver, possession of cocaine with intent to deliver, and delivery of marijuana. The negotiated plea also included a plea to a charge of delivery of cocaine, CR 2005-105, but no judgment as to that charge is included in the record before us. Appellant was sentenced to seventy-two months' imprisonment in the Arkansas Department of Correction on the possession of marijuana charge, 180 months' imprisonment on the possession of cocaine charge, and seventy-two months' imprisonment on the delivery charge, with those sentences and the sentence on CR 2005-105 to run concurrently. Appellant timely filed in the trial court a petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied. Appellant lodged an appeal of that order in this court and received one extension of time in which to file his brief. *Hancock v. State*, CR 06-1133 (Ark. Jan. 18, 2007) (per curiam). Appellant, however, failed to timely file his brief and now submits his pro se motion requesting this court to permit him to file a belated brief.

Appellant had received a copy of the record in response to a pleading that we treated as a motion for access. *Hancock v. State*, CR 06-1133 (Ark. Feb. 15, 2007) (per curiam). He returned that copy of the record, as required, on the date the brief was due, April 2, 2007. However, appellant's brief was not tendered until four days later, April 6, 2007. When tendered, the brief did not comply with our rules because it failed to include copies of the Rule 37.1 petition or the notice of appeal. In the motion before us, appellant requested time to contact the circuit clerk to obtain those documents. However, the copy of the record was returned to appellant so that he had the necessary documents in order to complete his addendum, and since filing the motion he has tendered a compliant brief and returned the copy of the record, once again.

As appellant first tendered his brief within a few days of the date it was due and has now tendered a compliant brief, we will allow the compliant brief to be filed. Our clerk is directed to permit the appeal to proceed.

Motion granted.